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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,949

10/24/2006

DeAlmedia Pimentel

3237-0001

5252

31425 7590 07/23/2007  
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EXAMINER

HERNANDEZ, MICHAEL

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

07/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,949	<b>Applicant(s)</b> PIMENTEL, DEALMEDIA	
	<b>Examiner</b> Mike Hernandez	<b>Art Unit</b> 3612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Specification*

1. **The disclosure is objected to** because of the following informalities: The disclosure contains only a brief description of the drawings that lists the parts of the invention. There is no detailed description of how the parts interact with one another to fully describe how the device functions. Additionally, the invention is described as a "van open body cover"; however it is believed (based on the figures) that the invention is in fact a pick-up truck bed cover.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. **Claim 1 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is replete with errors regarding lack of antecedent basis; for example – Ln 5, "the motor", "the bearing", and so forth. Additionally, the claim should not contain any parenthetical limitations, as they are ambiguous in nature.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3612

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 1, as best understood, is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,676,189 to Schall et al. in view of US Pat No 6,520,572 to Niederman et al. and further in view of US Pat No 6,491,332 to De Ceuster.

Schall et al. discloses a control device for opening and closing a pick-up truck bed cover comprising: a motor, bearings, rails 32, screws to mount the rails on the vehicle body, a steel cable 102 with a tubular guide 103, a lid 235 for covering the transmission system, a pleated flexible fabric cover 236, transverse support beams 34, and a remote control to operate the system (Col 7 Ln 44-47).

Schall et al. fails to disclose the use of a pulley as well as a slot key and a motor gear reducer.

Niederman et al. teaches a retractable cover system wherein a motor 74 drives a pulley 54 that extends and retracts a cable through a guide 84 to open and close the cover.

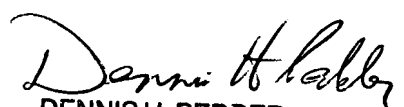

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device described by Schall et al. with a pulley system, as taught by Niederman et al., in order to open and close the cover system as the function of each has the same result using only one drive cable.

De Ceuster teaches (Col 3 Ln 60-63) a transmission gear reducer G as well as limit switches K1 and K2, which, as best interpreted by the examiner, are axle-pins or slot keys as disclosed in the present application.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device described by Schall et al. with a gear reducer and slot keys, as taught by De Ceuster, in order to achieve the desired speed to open and close the body cover as well as stop the motor when the cover reaches a specific point.

### **Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Hernandez whose telephone number is 571-272-2354. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
DENNIS H. PEDDER  
PRIMARY EXAMINER  
AU 3612 7/19/07  
  
MJH 7/19/07